

CP3735

PATENT  
Docket No.: 51362USA5B

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

GREGORY YUSCHAK ET AL.

Serial No.: 09/030,394

Filed: March 25, 1998

For: RESPIRATOR HAVING  
SNAP-FIT FILTER CARTRIDGE



Group Art Unit: 3735

Examiner: A. Lewis

**RECEIVED**

MAY 20 1999

**Group 3700**

**RESPONSE**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

In response to the Office Action mailed March 26, 1999, applicants submit the following remarks.

Claim 14 has been rejected as being indefinite under 35 U.S.C. § 112, second paragraph. As the Examiner is aware, the focus of an inquiry under the second paragraph of Section 112 is whether the claims reasonably set forth the metes and bounds of the subject matter claimed. Applicants see no reason why a person of ordinary skill would be incapable of determining the meaning of claim 14. The claim merely recites that there is a second engagement mechanism that is located laterally from the snap-fit engagement mechanism. The language seems rather plain on its face. It is not proper to reject the claim because it does not describe "exactly what structure applicant intends to define including exactly function (sic) it performs and how such a structure is physically interrelated with the other recited parts of the respirator." When the limits of the claim can be reasonably ascertained, the requirements of 35 U.S.C. § 112, second paragraph, have been met. Accordingly, applicants respectfully submit that this rejection cannot be sustained.

Claims 1-10, 13, 15, 16, and 18-28 have been rejected under 35 U.S.C. § 102(b) as being anticipated by, or in the alternative, under 35 U.S.C. § 103 as being obvious over U.S. Patent 4,856,508 to Tayebi.

Applicants' invention pertains to a respirator that includes a face piece and a filter cartridge. The face piece is sized to fit at least over the nose and mouth of a person, and the filter cartridge includes a housing and a filter element that is contained in the housing. The filter cartridge is capable of being manually snapped into engagement with the face piece. In one embodiment, the filter cartridge is also capable of being readily separated from the face piece, or a cartridge receiving structure located on the face piece, by manually pulling thereon. In other embodiments, the invention includes a snap-fit engagement mechanism that has a male member and a female member, wherein, during the engagement, either the male member initially compresses radially inward, or the male member remains essentially static while the female member initially expands radially outward.

Tayebi would not have anticipated or rendered obvious applicants' invention. Tayebi fails to disclose a face mask that includes a filter cartridge that contains a filter element. Tayebi discloses a filter element (17, 18) that is held in place by a snap-in retainer 19. Retainer 19 is molded of a flexible thermoplastic material that can bend as it is inserted into the interior of the mask shell 11 and is held in a groove therein as shown in Figure 4a. Tayebi indicates that the outer edges 20 of retainer 19 snap into the groove around the interior of the mask shell to retain the filter 17. The retainer 19, as shown in Figure 4, clearly does not qualify as a filter cartridge that contains a filter element. It is merely a part that separately functions to secure the filter element to the mask shell.

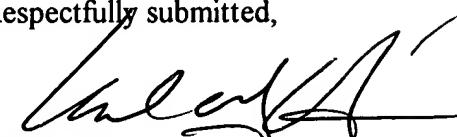
In applicants' invention, the filter element is contained in a filter cartridge, and the cartridge containing the filter element is capable of being manually snapped into engagement with the face piece or a cartridge receiving structure located on the face piece. In Tayebi, the retainer only functions to retain the filter element, it does not serve as a cartridge that contains the filter element.

Without any disclosure of a cartridge that contains a filter element, Tayebi does not anticipate, nor would it have rendered obvious, applicants' invention to a person of ordinary skill

within the meaning of 35 U.S.C. § 103. Accordingly, applicants urge the Examiner to withdraw this rejection and allow this reissue application at an early date.

Dated this 13<sup>th</sup> day of May, 1999.

Respectfully submitted,

  
Karl G. Hanson  
Attorney for Applicants  
Registration No. 32,900

Office of Intellectual Property Counsel  
3M Innovative Properties Company  
3M Center, P.O. Box 33427  
St. Paul, Minnesota 55133-3427  
Telephone: (651) 736-7776  
Facsimile: (651) 736-3833

51362USA5B\PTO\Response 1

Pursuant to 37 C.F.R. § 1.8 I certify that this correspondence is being deposited on the date indicated below with the United States Postal Service as First Class Mail in an envelope addressed to:  
Assistant Commissioner for Patents, Washington, DC 20231

  
Karl G. Hanson

Dated: 5/13/99